

No. 9/1/87-6Lab./4845.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of Manager, Haryana Milk Food Ltd., Pehowa:—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Ref. No. 251 of 1986

SHRI M. R. SINGAL C/O SHRI INDER SAIN BANSAL, CHHATTA NALAGARIA, JAGADHRI
AND THE MANAGEMENT OF MANAGER, HARYANA MILK FOOD LTD.,
PEHOWA.

Present:—

Shri Inder Sain Bansal, for the workman.
Shri R. L. Gupta for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide (C) of sub-section (i) of Section 10 of Industrial Disputes Act, 1947 referred dispute between Shri M.R. Singal and Messrs Haryana Milk Food Ltd., Pehowa to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri M.R. Singal is just and correct, if is not, to what relief is he entitled ?”

Workman alleged that he had been working as a Boiler Engineer in Operation Area and used to draw consolidated salary of a sum of Rs. 1,500 p.m. His services were terminated illegally because he had raised voice against the unfair labour practice, so he alleged his termination is illegal and void. He be reinstated with the relief of continuity in service and with full back wages.

Management contested the dispute and contended that the reference is illegal, void and without jurisdiction because Shri M.R. Singal is not a workman. He had been drawing Rs. 1,870 p.m. and was discharging supervisory duties. He further contended that he was provided an accommodation in the beginning in the residences of the directors where he started taking breakfast, lunch and dinner. First of all in a casual manner and thereafter he made a permanent routine which was not his condition of employment. He was asked many times to make arrangement of his residence but he had been postponing the matter. Thereafter, he started interfering with work of other officers and he created three ugly scenes in 1984, 1985 and 1986, thereafter; the board of directors lost confidence in him and his matter was discussed at length in his own presence and it was decided as per the willingness of Shri M.R. Singal that his services be done away with after issuing one month notice and accordingly he was terminated. Thereafter, he joined M/s. Punjab Maze Products Ltd., Upple Road, Sangrur near his own town and subsequently he raised the present dispute. It was contended that workman was a retired person. He was employed on temporary basis and when his behaviour became un tolerable he was removed from service at the age of 76 years, so it was prayed that dismissal of the workman was as per terms and conditions of the employment of Shri M.R. Singal. So this reference be answered against Shri M.R. Singal.

On the pleadings of the parties the following issues were framed —

Issues :

1. Whether termination of services of workman is unjust and illegal, if so, its effect?
2. Whether claimant is workman ? OPW
3. Whether reference is bad in law?
4. Relief.

The reference was posted for workman evidence for 6th May, 1987. Parties reached at an amicable settlement and submitted compromise Ex. C-1. Statement of Shri M.R. Singal was recorded who stated that he has compromised the dispute with the respondent-management as per terms and conditions mentioned in Ex. C-1 which is his solemn affirmation which reads that he had served demand notice to the management being misguided by some miscreants now he has compromised his dispute with the management and no longer interested in the prosecution of this reference.

In view of statement of Shri M.R. Singal coupled with his affidavit Ex. C-1 the dispute between the parties stands disposed of. I pass award regarding the dispute between the parties as compromised accordingly.

Dated 6th May, 1987.

V.P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 1002, dated 6th May, 1987

Forwarded (Four Copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Depts., Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6Lab./4848:—In pursuance of the Provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the Management of M/S The Khurana Cooperative C/S Society Ltd., Khurana, Teh. Kaithal, District Kurukshetra.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT
AMBALA

Ref. No. 191 of 1985

SHRI RAM DIA, S/O SHRI PARMA RAM DOHAR P.O. KHURANA TEHSIL KAITHAL DISTRICT KURUKSHETRA AND THE MANAGEMENT OF THE MESSRS THE KHURANA CO-OPERATIVE C/S SOCIETY LTD. KHURANA, TEHSIL KAITHAL, DISTRICT KURUKSHETRA

Present.—

Shri Rajeshwar Nath for workman.

None for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Ram Dia and Messrs The Khurana Co-operative Service Society, Ltd. Khurana to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri Ram Dia is justified and correct, if not, to what relief is he entitled?”

Workman through his demand notice alleged that he was appointed as a Peon on 2nd January, 1977 but later on he was promoted as a Salesman w.e.f. 1st September, 1977. His services were terminated w.e.f. 16th February, 1985 without issuing any notice and without making payment of any retrenchment compensation. He prayed for his reinstatement, with continuity in service and with full back wages.

Respondent management appeared contested the dispute, and contended that Shri Ram Dia was appointed as a Peon and then Salesman. During his course of employment he committed many irregularities and also misappropriated funds of the society temporary. Society passed an. resolution before terminating the services of workman. Notice was served upon him. It was further contended that provisions of section 25(F) of Industrial Disputes Act, 1947 are not applicable upon the respondent management, so the compliance of the same was not required.

After filing the reply respondent management absented on 12th January, 1987, so ex parte proceedings were taken up against the respondent management. The reference was posted for recording ex parte evidence for 17th February, 1987, 10th March, 1987, 21st April, 1987. On 21st April, 1987 workman appeared in the witness box and supported his case by saying that he joined service of respondent management as a Peon on 2nd January, 1977. He was promoted as a Salesman on 1st September, 1977. His services were terminated on 16th February, 1985 without issuing any charge-sheet notice and without making payment of retrenchment compensation, so he prayed for, that his termination is illegal. After his termination Ram Chander, son of Shri Munshi Ram has been recruited by the Society in his place. He stated that he did not commit irregularities nor he embezzled funds of the respondent management. He submitted that he be reinstated with relief of continuity of service and with back wages.

I have heard Authorised Representative of the workman and have perused ex parte evidence and of the considered opinion that no doubt respondent did not contest this dispute. There are certain copies of resolution which are unexhibited on file which are dated 28th June, 1984 with which reads that 4,800 were given to workman for purchasing the sugar but he kept this amount for six days and did not purchase the

Sugar, thus he made temporary embezzlement. Another resolution of the society is dated 16th February, 1985 which has given details of the irregularities and temporary embezzlement made by the workman. Keeping in view these circumstances against the workman I am of the considered view that in fact work and conduct of the workman was not up to the satisfaction of the respondent management. But the management did not proceed with according to prescribed procedure. It should have appointed any Inquiry Officer against the workman after conducting any inquiry appropriate punishment should have been imposed if the applicant would have been found at fault but it preferred to terminate his service even without complying with provision of section 25(F). So workman is entitled to reinstatement with continuity in service. However I am of the considered view that Shri Ram Dia did not discharge any function for the respondent management during the period he remained away from the employment of respondent management, so he is not entitled to full back wages. So he is reinstated with the relief of continuity in service without back wages. I pass an *ex parte* award regarding the dispute in hand accordingly.

The 2nd May, 1987

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 990, dated 2nd May, 1987

Forwarded (Four Copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of I.D. Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/187-5Lab./4850.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of M/s. The Hebri Co-operative Credit and Service Society Ltd., Hebri, Tehsil Kaithal, District Kurukshetra.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 262 of 1985

SHRI BALWANT SINGH, SON OF SHRI 'MAM' CHAND SAINT VILLAGE AND POST OFFICE PUNDRI, DISTRICT KURUKSHETRA AND THE MANAGEMENT OF THE MESSRS THE 'HABRI CO-OPERATIVE CREDIT AND SERVICE SOCIETY LTD., HABRI TEHSIL KAITHAL, DISTRICT KURUKSHETRA

Present :—

Shri Rajeswar Nath, for workman.

None, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (C) of Sub-section (i) of section 10 of Industrial Dispute Act, 1947 referred dispute between Shri Balwant Singh workman and Messrs The Habri Co-operative Credit and Service Society Ltd. Habri to this Court. The terms of the reference are as under :—

"Whether termination of services of Shri Balwant Singh is just and correct, if not, to what relief is he entitled?"

Workman alleged that he joined service of respondent management as a Secretary in the year 1971. His services were terminated on 12th October, 1976 which is violative to provisions of section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent management was served but in spite of service he did not appear. so respondent management was proceeded *ex parte*.

Workman Balwant Singh in support of his case examined himself as AW-1 and deposed that he joined service of respondent management on 1st October, 1971 as a Secretary,—vide appointment letter Ex. A-1. The official of the bank took charge from him on 11th September, 1976. Copy of the same is Ex-A-7 while removing him from service no notice, no retrenchment compensation was paid. Assistant Registrar Co-operative Society conducted inquiry against him. Copy of the inquiry report is Ex. A-2 thereafter arbitration proceedings were carried out against him. Award of the arbitrator is Ex-A-3. A police case was

registered against him in which four-five other person have also been summoned by court and copy of the order of the Court is Ex-A-4. He first of all served demand notice upon the bank and thereafter; his case was referred to the Labour Court. Co-operative Society issued a no dues certificate to him. Copy of the same is Ex A-5. One more no dues certificate was issued to him and copy of the same is Ex A-6.

In view of the above *ex parte* evidence I am of the considered opinion that when the respondent-management was served it should have appeared and contested this Industrial dispute which is involved in this reference but the respondent has absented himself reasons best known to it and due to that fact *ex parte* proceedings were taken up against the respondent.

There is a sole statement before me of the applicant which he made on oath by saying that he did not embezzle any paise of the respondent. His services were terminated without issuing any notice to him and without making payment of any retrenchment compensation. He has also produced no dues certificate. Ex-A-5 and A-6 which shows that no amount was outstanding towards him of the committee. However a criminal case was registered against him,—*vide* F.I.R. No. 411, dated 23rd December, 1977 which is pending in the court of Sub-Divisional Judicial Magistrate, Kaithal. Copy of order of the S.D.J.M. dated 28th February, 1984 which is Ex. A-4 on the file reads that *prima facie* cases under section 467, 468, 420, 409, 120-B.I.P.C are also made due against one Hardial Singh, President, Nishan Singh, Vice-President, Balwant Singh, Cashier and then the Salesman Sunder Singh, so they have also been summoned to face trial along with Balwant Singh. The matter is already subjudice with the court without awaiting the result of the criminal case services of Shri Balwant Singh have been terminated in violation of provisions of section 25(F). So I think that the termination order passed by the respondent regarding services of workman is at this stage unjust and illegal during the pendency of criminal case against the workman and other person. So termination of the workman is set-aside with the relief of reinstatement with continuity in service and with full back wages. I pass an *ex parte* award regarding the dispute in hand between the parties accordingly. This award of mine regarding the present Industrial dispute shall not have any effect on the criminal case pending in the court of S.D.J.M., Kaithal. Neither this award shall in any respect influence the mind of the criminal Court while delivering judgement in Criminal Case.

Dated the 2nd May, 1987

V. P. CHAUDHRY,
Presiding Officer,
Labour Court,
Ambala.

Endorsement No. 991, dated 2nd May, 1987,

Forwarded (Four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V.P. CHAUDHARY,
Presiding Officer,
Labour Court,
Ambala.

No. 9/1/87-6 Lab./4912.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of Secretary, Marketing Board, Haryana, Narwana.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 143 of 1986

SHRI BALRAJ SON OF SHRI NIHAL SINGH VILLAGE SACHA KHERA TEHSIL NARWANA,
DISTRICT NARWANA AND THE MANAGEMENT OF THE MESSRS SECRETARY,
MARKETING BOARD, HARYANA, NARWANA

Present.—

Shri K.R. Bansal, for workman.

Shri S. Parkash, for respondent,

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Balraj, workman and Messrs Secretary, Marketing Board, Haryana, Narwana to this Court. The terms of the reference are as under :

Whether termination of services of Shri Balraj, workman is just and correct, if not to what relief is he entitled ?”

Workman alleged that he was appointed as a Driver on daily wages through Employment Exchange on 18th May, 1982, since then he had been discharging his duties to the satisfaction of the respondent management. On 3rd September, 1985 his services were terminated in violation of provisions of section 25(F) of Industrial Disputes Act, 1947. New persons were recruited in his place. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that petition is bad for joinder of improper parties. Workman worked on daily wages. He was rightly relieved of his duty as per terms and conditions of his appointment. He has got no *locus-standi* to file this claim petition. It was also contended that respondent is not an industry. So the dispute does not fall within the definition of industrial dispute. It was also contended that the services of the petitioner were liable to be terminated without any notice, accordingly it was done. He further contended that there is no relationship of employer and employee between the parties.

On the pleadings of the parties the following issues were framed :

Issues :

1. Whether termination order regarding services of workman is unjust and illegal, if so, its effect?
2. Whether respondent is not an industry, if so its effect?
3. Relief.

I have heard authorised representatives of the parties and have perused the oral and documentary evidenced placed on the file. My issuewise findings are as under :—

Issue No. 1 :

In support of this issue workman examined himself and deposed that he joined service of respondent-management as a Tractor Driver on 9th June, 1982 and served upto 30th September, 1985. Respondent terminated his services without issuing any notice and without making payment of retrenchment compensation. In cross-examination he deposed that he was appointed through Employment Exchange,—vide Exhibit R-1 on daily wages.

Respondent examined RW-1 Secretary, Marketing Board, Narwana who stated that workman was recruited on daily wages basis through Employment Exchange. On arrival of regular candidates services of workman were terminated according to terms and conditions of appointment letter. In cross-examination he admitted that at the time of terminating services of workman no notice was issued to him, no retrenchment compensation was paid to him. Appointment letter Exhibit M-1 reads that, “you are hereby appointed as Tractor Driver in Market Committee, Narwana. Your appointment is on daily wages at the rates fixed by the Deputy Commissioner, Jind for the year 1985-86. Your appointment as Tractor Driver is purely on temporary basis and your services can be terminated at any time without any notice.”

In view of the above service conditions workman was appointed and was terminated. But Marketing Committee, Narwana falls in the definition of an industry, due to that fact Industrial Act is applicable upon the management and employees of the respondent. On the arrival of regular candidates at the time of terminating services of workman Shri Balraj respondent must have issued either one months notice or should have paid one month pay. In lieu of notice period and retrenchment compensation must have also been paid to him. but no compliance of provisions of section 25(F) of Industrial Disputes Act, 1947 was made by the respondent which is an irregularity as well as illegality on the part of the respondent-management. Since a person was appointed in place of Shri Balraj is a regular employee, so he is on the better footing than present workman Shri Balraj because workman was appointed on daily wages basis and purely on temporary basis as per his service conditions reproduced above. In these circumstances I reach at the conclusion that the termination order is bad in law up till this extent that there is a violation of provisions of section 25(F) of the Industrial Disputes Act, 1947, but I am of the view that the mistake on the part of respondent-management is a bonafide so workman cannot get relief of reinstatement. He is only entitled to one month pay, in lieu of, notice period and retrenchment compensation, so this issue is accordingly decided up to this extent, in favour of workman against the management.

Issue No. 2

Respondent management is an industry because it supervises the sale of food grains and other commodities which are brought in the markets, it charges market fee it maintains the food grain market in order its employees, supervises the sale purchase of the different commodities, so it is an industry in the definition of Industrial Disputes Act, so this issue is decided, in favour of workman against the respondent.

Issue No. 3 :

For the foregoing reasons on the basis of my issuewise findings I order respondent-management to make payment of wages, in lieu of one month notice as well as retrenchment compensation to the workman. However, the relief of reinstatement of workman is declined because as per his condition in employment letter a regular candidate has been taken in job in his place. I pass award regarding the dispute between the parties accordingly.

Dated 15th May, 1987.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1086, dated 18th May, 1987.

forwarded (Four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment, Departments, Chandigarh as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6Lab/4913.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the Management of M/s (i) M.D. M.I.T.C. Chandigarh, (iii) Executive Engineer, Drilling and Development Division, Model Town, Ambala City.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 147 of 1985.

SHRI SURINDER SINGH, WORKMAN SON OF SHRI JAGIR SINGH, C/O SHRI R. NATH, 2655, TIMBER MARKET, AMBALA CANTT AND THE MANAGEMENT OF THE MESSRS M. D. M.I.T.C., CHANDIGARH. (II) EXECUTIVE ENGINEER, DRILLING AND DEVELOPMENT DIVISION, MODEL TOWN, AMBALA CITY

Present.—

Shri Rajeshwer Nath for workman.

Shri V. K. Vattrana for the respondent

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (C) of sub section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Surinder Singh workman and Messrs M.D. M.I.T.C., Chandigarh, etc. to his Court. The terms of the reference are as under:—

“Whether termination of services of Shri Surinder Singh, workman, is just and correct, if not, to what relief is he entitled?”

Workman alleged that he was appointed as a T. Veate with effect from 1st November, 1979 in Sub-Division No. 1 M.I.T.C., Model Town, Ambala City. His service were regularised as work, charge T. Veate with effect from 1st March, 1981. Thereafter he was transferred to Sub-Division No. 4 M.I.T.C. Kaithal in the month of September, 1983. He was deputed to look after the repairs work of W.S. being done by M/s Tib Engineers Ambala Cantt. On 11th November, 1983 the said Machine was taken away after repairs from Ambala when unfortunately he fell ill and applied for leave. He cou'd not report on duty, up to 5th January, 1984 and when he reported on duty he was informed that his services have been terminated on account of his absence.

He alleged termination of the service is violative to provisions of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contended the dispute and contended that M.I.T.C. does not come within the ambit of definition of industry under section 2(J) of Industrial Dispute Act, 1947. Shri Surinder Singh, workman absented more than 10 days from his duty without permission, so his services stood terminated automatically. Sub-Divisional Officer is the appointing and punishing authority of the work-charged staff but he was not joined as a party to this dispute, so the reference is bad for non-joinder of necessary parties. It was further contended that workman was never employed regularly in fact he was on purely temporary and work-charged basis with effect from 1st March, 1981. Petitioner did not report on duty on 5th January, 1984 nor he produced any medical certificate from the competent Doctor since the absence of the workman was willful without permission w.e.f. 12th November, 1983 for more than 10 days, so services of workman automatically came to an end.

On the pleadings of the parties the following issues were framed:—

Issues

1. Whether termination order dated 5th January, 1984 is legal, if not its effect? OPM
2. Whether dispute is not covered under the definition of industries? OPM
3. Whether Labour Court has got no jurisdiction to try this dispute? OPM
4. Relief.

I have heard authorised representatives of the parties and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :

Issue No. 1

In support of this issue management examined Shri S.R. Paul, SDO, M.I.T.C., Faridabad as MW-1 who deposed that Shri Surinder Singh was appointed as per terms and conditions mentioned in the appointment letter Ex-M-1. It was issued under the signature of Xen. M.I.T.C., He further deposed that according to para 3 appointment letter Ex. M-1 he is the punishing authority of the workman. In November, 1983 drilling Machine went out of order which could not be repaired at Kaithal so it was despatched to Ambala along with workman. He himself came to Ambala in the workshop and found workman absent from duty when he went in the Divisional Office workman was there. He enquired of the absence of the workman from the place of drilling Machine at that time workman failed to give satisfactory reply to him. Workman prayed for leave, he issued a letter Ex-M-5 which was not replied by workman and thereafter he remained absent for considerable time. He was not happy with his work and conduct. He cannot say whether any medical certificate regarding the illness of workman was received in the office or not. He also cannot say whether leave application of workman were received in the office or not. MW-2 is Shri Hans Raj he brought despatch register. Regarding a letter dated 9th November, 1983 he was despatched to workman. In cross-examination he stated that whether register letter was delivered to workman or not because no acknowledgement was received from the side. He also cannot say whether workman replied to that letter or not. MW-2 Shri Shanta Ram he also made statement just like MW-1. MW-2 is Shri Tirath Ram he has also not stated anything new. But has only repeated the version given by MW-1 and MW-3.

Shri Surinder Singh as AW-1 he stated that drilling Machine was entrusted by him to S.D.O. and thereafter he took leave from S.D.O. and left for his house because he was already ill. He despatched medical certificate and when he recovered, he obtained medical fitness certificate and appeared in his office but he was not joined. He was told that his services have been terminated. He submitted that before terminating his service no show cause notice, no retrenchment compensation, no bonus, no T.A., no pay was given to him. AW-2 is Dr. Om Parkash, he deposed that workman remained in his treatment from 12th November, 1983 to 4th January, 1984. In cross-examination he denied the suggestion that his records is forged one. AW-3 is Shri Harcharan Singh deposed that he was posted on branch Postman on 12th May, 1982. Photostat copy of registered letter Ex-A-31 is correct according to original, which was seen and written.

In view of the above I am of the considered opinion that Shri Surinder Singh was in the employment of respondent management as work-charged purely on temporary basis. He was despatched with drilling Machine for getting it repaired at Ambala, when MW-1 came to Ambala he found Shri Surinder Singh absented from the place of drilling Machine. When S.D.O. went to Divisional Office he found Shri Surinder Singh there. In the meantime the Drilling Machine had been repaired. Shri Surinder Singh requested for leave to S.D.O. but S.D.O. has not given any satisfactory reply whether he sanctioned the leave or rejected the same. Shri Surinder Singh when came in the witness box he stated that he did not bring his

bedding from Kaithal to Ambala, so he fell ill thereafter; he had been getting his treatment from AW-2 Dr. Om Prakash. He also despatched medical certificate along with leave application. MW-1 stated that he cannot say whether leave application and any medical certificate of the applicant was received in their office or not. MW-1 stated that work and conduct of workman was not satisfactory. But he further stated that regarding this no warning was ever issued to workman nor any explanation in this context of the workman was ever called for. The Department considering the workman absent more than 10 days terminated his service, in spite of fact that workman had applied for leave on medical grounds when workman appeared in the office along with fitness certificate he was not joined.

It is not proved on the file that the letter which was issued by the respondent was ever received by the workman regarding his absence and calling him on his duty. So from the evidence of the respondent is clear that management acting in haste for terminating services of workman Shri Surinder Singh, so termination is unjust and illegal. So this issue is decided, in favour of workman against the management.

Issue No. 2

Respondent-management has relied upon Ex-M-8 its para 4 on the basis of same it has argued that respondent management is a part and parcel of irrigation Department, so he does not fall within the definition of industry. But I am of the considered view that HSMITC might be working under the Haryana Canal and Draining Act, 1974. But it has got its separate legal entity being a corporation hence it is an autonomous body. Moreover it has been discharging independent function of the drilling construction of water channel on payment basis for the farmers, so I think that HSMITC comes within the definition of industry. So this issue is decided against the management, in favour of workman.

Issue No. 3

In view of my findings on issue No. 2 the Labour Court has got jurisdiction to adjudicate upon dispute between the parties, so this issue is also decided in favour of workman against the respondent.

Issue No. 4

For the fore-going reasons on the basis of my findings I order the re-employment of workman with continuity in service and with full back wages. I pass award regarding the dispute between the parties accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated: 16th May, 1987.

Endst No. 1087, dated the 18th May, 1987.

Forwarded (Four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour & Employment Deptts., Chandigarh as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6 Lab./4914.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of M/s Bhupindra Cement Works, Surajpur (Ambala).

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA.

Reference No. 190 of 1986

SHRI KIRPAL SINGH, S/O SHRI SANTOKH SINGH, VILLAGE BHURIA SAINI, P.O. JAGOWAL, TEH-
AND DISTRICT GURDAS PUR (PUNJAB) AND THE MANAGEMENT OF THE MESSRS BHUP-
PINDRA CEMENT WORKS, SURAJPUR (AMBALA).

Present:—

Shri R. Nath, for workman.
Shri T. Mohan, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Kirpal Singh workman and Messrs Bhupindra Cement Works, Surajpur to this Court. The terms of the reference are as under :—

“Whether termination of services of workman is just and correct, if not, to what relief is he entitled ?”

Workman alleged that he had been working as a watchman in Bhupindra Cement Works bearing Token No. 1015 for the last more than 20 years to the entire satisfaction of his Superiors. Except one Security Officer who was criminal towards him, he was not promoted in time on the basis of seniority. His juniors were given promotion due to that fact he suffered mentally. The authorities also/ tried to get him to declared as mental case in connivance with the Doctor of the company due to that fact he was charge-sheeted. Inquiry Officer was appointed but no fair and proper inquiry was conducted by the Inquiry officer in his case. He was neither given a proper opportunity to cross-examine the witnesses and to lead defence evidence on the basis of wrong Inquiry report, his services were dispensed with illegally. He prayed for setting aside the termination order and his reinstatement with continuity in service and with full back wages.

Management contested the dispute and contended that Shri Kirpal Singh was dismissed from service of the company after a fair and proper inquiry which went into the charges levelled against him under the provisions of certified standing orders applicable to the employees and after the company was satisfied that Shri Kirpal Singh was guilty of the charges. His services were dispensed with but before passing termination order an full opportunity of cross-examining the witnesses leading the defence evidence and an opportunity of being heard were provided to Shri Kirpal Singh. It was further contended that the past records of the claimant was extremely bad and it speaks for itself that Shri Kirpal Singh was addicted to Alcohol. When he used to come on duty, he used to appear under the influence of Alcohol. Many times warnings were issued to him, his suspension was also ordered twice and thereafter Inquiry Officer was appointed who went into the charges against the workman submitted his inquiry report and thereafter his services were dispensed with.

Workman filed replication through which he refuted the contentions of the respondent management.

During the pendency of the trial of this dispute parties reached at an amicable settlement and they submitted Ex-C-1. Statement of Shri Kirpal Singh and Shri Rajeshwar Nath were recorded, they accepted the compromise which is as follows :

“Without prejudice to the company's contention that in view of the gravity and seriousness of the mis-conducts proved against the workman Shri Kirpal Singh, absolutely nothing by way of compensation is payable to the workman by the company, the parties agree as a special case and without setting any precedent for the future, the company will pay a total amount of Rs. 25,000 (inclusive of Rs. 13,972 being gratuity amount of the workman payable under the provisions of the payment of Gratuity Act, in full and final settlement of all his claims against the company pursuant to the dismissal including his claim for reinstatement/re-employment/compensation etc. against the Company. The workman thus leaves his claim of reinstatement.”

That the amount of Rs. 25,000 mentioned above is being paid to workman Shri Kirpal Singh by cheque No. A13/100 163474, dated 16th May, 1987 of State Bank of India, Surajpur.

In view of the above terms of compromise workman has received a cheque of Rs. 25,000 and he has waived his right of reinstatement and all other benefits which would have been available to him. In view of the above settlement his all the disputes with the respondent management have been settled finally. I pass award regarding the dispute between the parties as per compromises.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Dated the 18th May, 1987.

Endorsement No. 1096, dated the 22nd May, 1987

Forwarded (Four Copies) to the financial Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.